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(cancel)

said male portion of each corrugated section having a single second corrugation having a crest and valley with the distance between the crest and valley of said second corrugation being a second distance that is less than said first distance,

said male portion of each corrugated section having a single third corrugation having a crest and valley with the distance between the crest and valley of said third corrugation being a third distance that is less than said first distance,

said female portion wall member telescopically receiving said third corrugation and at least a portion of said second corrugation, said crest of said third corrugation having a recessed area accommodating a sealing element that is retained between said recessed area and said female portion, said female portion having a reinforcing means disposed around its exterior surface at a position along the longitudinal axis of the female portion that is generally aligned with the sealing element.

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16. The pipe according to claim 12, wherein said reinforcing means comprises one of tape, an adhesive layer, and plastic, and also comprises one of fiberglass, metal, carbon fibers, and plastic fibers.

#### REMARKS

Applicants have cancelled claim 10 and amended claims 1, 6, 8, 12, and 16. Claims 1-9 and 11-29 are therefore presently pending in this application.

In the Office Action dated October 2, 2002, the Examiner objected to the abstract of the disclosure. The original abstract has been replaced with an abstract, attached hereto, that overcomes the Examiner's objection. Thus, Applicants respectfully request that the Examiner withdraw the objection.

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The Examiner rejected claims 6, 10, and 16 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have cancelled claim 10 and amended claims 6 and 16. Applicants request that the rejection under § 112 be reconsidered and withdrawn.

The Examiner further rejected claims 8, 9, and 11 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,126,209 to Goddard. Applicants note that independent claim 8 has been amended to include the subject matter of claim 10. Claim 8 is allowable over the prior art of record. Goddard's '209 patent does not teach the claimed combination of first, second, third, and intermediate corrugations, nor does it teach the female portion having a length greater than that associated with the claimed third and intermediate corrugations. Although the Examiner asserts that Kallenbach can be combined with Goddard's '209 patent in a manner that would disclose or suggest an additional intermediate corrugation, Kallenbach is non-analogous art and one skilled in the art would not consider such a combination. Kallenbach discloses a swimming pool hose whose joints are design to deal with the opposite forces (i.e., a low relative pressure vacuum) from that of the present invention. Therefore, the Kallenbach pipe joint is not designed to accommodate the same forces as that of the present invention, nor is it designed to accommodate the claimed sealing gasket. Lack of a sealing gasket is common in such low relative pressure pipe joints. Further, Kallenbach's joint is designed for easy disconnection - which is contrary to the objectives of the present invention, which is designed to avoid disconnection. Thus, one skilled in the art would not be motivated to combine the teachings of Kallenbach with those of Goddard

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because the patents are from are non-analogous arts, are designed for significantly different uses, and have different objectives.

Further, the Examiner's stated motivation to combine Kallenbach with Goddard's '209 patent is inadequate. According to the MPEP, the mere fact that the references can be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 16 USPQ2d 1430 (Fed. Cir. 1990). The addition of an intermediate corrugation, as specifically claimed and having a distinct functionality, cannot be dismissed as a mere design choice. The Examiner's "design choice" motivation can only be based on hindsight because it is not taught in the references or generally in the prior art. In accordance with MPEP § 2143, motivation to combine must be found in the prior art. If the Examiner is basing the "design choice" motivation to combine on her own personal knowledge, Applicants request that she execute an affidavit of her personal knowledge, with specificity, as required under MPEP § 2144.03.

Claims 9 and 11 depend from claim 8 and are therefore allowable for at least the same reasons as stated with respect to claim 8.

The Examiner also rejected claims 1, 2, 5-7, 12, 15-23, and 26-29 under 35 U.S.C. § 103(a) as unpatentable over Goddard's '209 patent in view of U.S. Patent No. 5,072,972 to Justice. Applicants have amended claims 1, 6, 12, and 16. Claims 1, 12, and 18 are allowable over the applied prior art. As admitted by the Examiner, Goddard's '209 patent does not teach a reinforcing element as claimed. Each of claims 1, 12, 18, and 26 recites a reinforcing element and its spacial or functional relation to a sealing element. The Examiner asserts that Justice teaches a pipe with reinforcing

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means that holds the sections in position, and alleges that it would therefore be obvious to one skilled in the art at the time of the invention to modify Goddard's '209 pipe to include the reinforcing means taught by Justice. Applicants respectfully disagree.

Like Kallenbach, Justice is not analogous art. The pipe of Justice is not designed to be watertight and therefore the joint of Justice is not, and is not intended to be, watertight. Further, each of claims 1, 12, 18, and 26 disclose a reinforcing element and its spacial or functional relation to a sealing element. The pipe joint of Justice does not include a seal (nor would it logically be used with a seal because it is not intended to be watertight) and therefore cannot be used to teach a reinforcing member and its spacial or functional relation to a sealing element to create a watertight pipe joint as claimed. In fact, no other prior art of record obviates a reinforcing member and its spacial or functional relation to a sealing element as claimed. Thus, claims 1, 12, and 18 are allowable over the prior art of record and this rejection should be withdraw. Claims 2, and 5-7 depend from claim 1 and are therefore allowable for at least the same reasons. Claims 15-17 depend from claim 12 and are therefore allowable for at least the same reasons. Claims 19-23 depend from claim 18 and are therefore allowable for at least the same reasons. Claims 27-29 depend from claim 26 and are therefore allowable for at least the same reasons.

Claims 3 and 13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Goddard's '209 patent in view of Justice and further in view of EP595742 to Courant. As set forth above, claims 1 and 12 are allowable over the prior art. Therefore, claims 3 and 13, which depend from claims 1 and 12, respectively, are allowable over the prior art for at least the same reasons.

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The Examiner further rejected claim 10 under 35 U.S.C. § 103(a) as unpatentable over Goddard's '209 patent in view of U.S. Patent No. 5,348,051 to Kallenbach. Claim 10 has been canceled, rendering the rejection moot.

The Examiner further rejected claims 4, 14, 24, and 25 under 35 U.S.C. § 103(a) as unpatentable over Goddard's '209 patent in view of Justice as applied to claims 1, 12, and 22, and further in view of Kallenbach. As set forth above, claims 1, 12, and 18 are allowable over the prior art. Therefore, claims 4, 14, 24, and 25, which depend from claims 1, 12, and 22 respectively, are allowable over the prior art for at least the same reasons. Applicants request that the Examiner withdraw this rejection.

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims.


Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: April 2, 2003

By: \_\_\_\_\_

  
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